IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
Writ petition No. 82 (S/B)2003

Prem Ratan Kashyap ……Petitioners

Vs.

District Judge, Dehradun,
And one another.

…….Respondents.

Hon'ble P.C. Verma, J.

This writ petition has been filed by Prem Ratan Kashyap, Ex. Record keeper, Civil Court, Dehradun challenging the order dated 04.09.2000 dismissing the petitioner from service, contained in annexure-3 to the writ petition.

Heard Sri Narayan Datt, learned counsel for the petitioner and Sri Rajendra Dobhal learned counsel for the respondents.

The petitioner was working as Record Keeper in Civil Court Dehradun. In the night between 07.12.1999/08.12.1999 fire broke out in the Record Room of Civil Court, Dehradun which was reported by Sri Darshan Lal and Sanjay to Sri V.K. Maheshwari, Addl. District Judge and In-charge 'Nazarat' District Court, Dehradun who immediately visited the spot and summoned the fire-brigade from the office of Fire-Brigade; the Fire-Brigade could over come the fire, but records in one section of record Room were burnt which were about 800 in numbers. On this report he further submitted a report to the District Judge. The District Judge ordered for a preliminary enquiry. In the preliminary enquiry, conducted by Sri Subhash Chandra, Enquiry Officer/Special Judge Anti Corruption U.P. (East), Dehradun on 15.01.2000, Sri Pren Ratan Kashyap (Petitioner) Head Record Keeper, Sri Vinay Bhardwar, Record Keeper (Criminal Record Room) and Sri Ajay Veer Singh, Head Copyist were found prima-facie responsible of broking of fire as they used to stay in the evening till late night and used to drink alcohol. Presence of one unknown lady was also noticed. It was reported that fire broke out of a burnt piece of

cigarette thrown in the office. Accordingly, the report was submitted to the District Judge and the delinquent officials were charged.

The Copy of the preliminary enquiry is on the record it is contained as annexure-6 to the writ petition. On the basis of this preliminary enquiry report, it was decided to held departmental enquiry. Sri Qazi Gufran Ali, I Addl. District Judge, Dehradun was appointed as Enquiry Officer.

Pending the departmental enquiry, the petitioner was placed under suspension. The Enquiry Officer framed charges against the petitioner and others on 29.04.2000. The chargesheet is contained in annexure-8 to the writ petition. The petitioner was required to submit his reply by 20.05.2000. The petitioner was further required to inform as to whether he wants personal hearing in the matter and wish to cross-examine any witness. He was also informed as to whether he wants to produce any witness(s) and summary of the evidence likely to be given by the said witness(s) the charge against the petitioner reads as under:-

> "That you on 7.12.1999, while posted as Record Keeper, Record Room (Civil in Dehradun Judgeship, over stayed in the Record room (Civil) in the evening as late as about 7:00 p.m. along with two other officials of his judgeship namely Sri Vinay Bhardwaj and Sri Ajay Veer singh and a woman, an outsider, who was on visiting terms with you and that while sitting into, you consumed liquor, had a smoke and indulged in obscenity along with above said two officials and the outsider woman, inside the Record Room (Civil).
>
> Further, you accompanied by the above named officials went on having excessive drink and smoke and did not notice the leftovers', the burning butts of cigarettes/beedies, inside the Record room while closing it, as a result of which one section of the Record Room (Civil) caught fire burning a huge bulk of files/records of the judicial cases to ashes."

The petitioner submitted his reply of the chargesheet. In the meantime, the Enquiry Officer was changed and Sri R.R. Agarwal

was made enquiry officer. The reply of the chargesheet submitted by the petitioner is contained in annexure-9 to the writ petition. In the reply, the petitioner denied the charges leveled against him. The Enquiry Officer proceeded with departmental enquiry, after receipt of the chargesheet. All the three concerning officials against whom the charge was framed were given opportunity to cross examine all the four witness, the evidence of whom was recorded during preliminary enquiry. All the three officials made elaborate cross-examination with the witnesses. The reports of the Officer-in Charge 'Nazarat' and that of Preliminary Enquiry Officer were also put to them. One paper filed by the petitioner in his defence during the proceedings was also taken into account. The Enquiry Officer, after examining each and every fact pleaded by the petitioner and each statement of the witnesses and cross-examination of the witnesses, found that charge of serious negligence, on account of which Record Room was burn, against Sri Prem Ratan Kashyap and Sri Vijay Bhardwaj is concerned, is proved, through charge of obscenity by the excessive drinking was not found proved against them. The Enquiry Officer further recorded that Sri Prem Ratan Kashyap and Sri Vijay Bhardwaj are responsible for the fire, which broke out in the Record Room in the night in between 7.12.1999 and 8.12.1999 due to their negligence, which amounted to gravest act of misconduct unbecoming of Govt. servant. However, they are exonerated to the charge of obscenity and excessive drinking. Sri Ajay Veer Singh to exonerate of all the charge leveled against him.

The enquiry report was considered and examined by the Punishing Authority i.e. District Judge, Dehradun on 09.08.2000. The learned District Judge himself examined the charge, evidence on record in proof of the charge and defence of the petitioner, as he had held in detailed in the order of punishment. He was satisfied that the enquiry report submitted by the Enquiry Officer holding Sri Prem Ratan Kashyap (Petitioner) and Sri Vijay Bhardwaj responsible for the incident of fire, which took place on account of their negligence and gravest act of misconduct and their staying late in the evening in the

Record Room. In View of the enquiry report and the conclusion of the Enquiry Officer, the District Judge came into the conclusion that Prem Ratan Kashyap and Vijay Bhardwaj deserve suitable punishment for their negligence and gravest act which ultimately resulted fire broke out in one portion of the record Room burning huge bulk of files of record to ashes. However, according to the aforesaid findings, show cause notice was issued to the petitioner requiring him to show cause as to why suitable punishment should not be imposed for gross negligence and gravest act of misconduct causing the incident of the fire in the Record Room burning a large numbers of files/judicial records to ashes. A copy of the order dated 09.08.2000 alongwith copy of the enquiry report alongwith show cause notice was sent to the petitioner.

The petitioner has replied of the show cause notice on 09.08.2000. In the reply, the petitioner pleaded that the petitioner is liable to be exonerated and he relied on certain decisions of the Hon'ble Supreme Court, Apart from the denial of the proving of the charge.

Learned District Judge considered the entire reply submitted by the petitioner on the quantum of the punishment and also considered the case laws cited by the petitioner with his reply and passed the impugned order of dismissal on 04.09.2000.

Perusal of the dismissal order shows that the learned District Judge has considered the charge leveled against the petitioner, mentioned in the chargesheet, replies submitted by the petitioner and the witnesses examined and cross-examination before the Enquiry Officer and after consideration of the entire evidence on record, agreed with the report submitted by the Enquiry Officer that the petitioner was guilty of serious negligence and gravest misconduct which resulted in broking of fire in which 800 judicial records were burnt. The petitioner was the Record Keeper. Considering the seriousness of the charges, which were grievous in nature the punishing Authority/Appointing Authority, has awarded punishment of dismissal.

From the aforesaid discussion, it is clear that the delinquent official was given full opportunity to defend his case, therefore, no interference is warranted on the ground of affording inadequate opportunity to the petitioner. So far as quantum of punishment is concerned, it is well settled law that this court cannot interfere with the quantum of punishment until it is shocking in nature, where it is proved that the fire broke on account of gravest act of misconduct of the petitioner who used to stay in the office in the late night in the Record Room after the office hours when the fire broke out. Therefore the order of dismissal is not shocking in nature rather, the punishment commensurate to the gravity of the charge. I am not inclined to interfere with the dismissal of petitioner from service.

The writ petition is accordingly dismissed.

(P.C. Verma, J.)

September 24,2003:
NCM